

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GREGG BOSTER,

Index No. CV 06 - 4756

Plaintiff,

REQUEST TO ENTER DEFAULT

-against-

SALVATORE BRACCIA, DANIEL LETTIERE,
SCHRODER & COMPANY, INC., DAMIEN
NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a
"ROBERT MCGRATH,"

Defendants,
-----X

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 6 2006 ★

TO: ROBERT C. HEINEMANN, CLERK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

Please enter default against Defendants SALVATORE BRACCIA, DANIEL LETTIERE, SCHRODER & COMPANY, INC., DAMIEN NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a "ROBERT MCGRATH" pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned action as fully appears from the court file herein and from the attached affidavit of Timothy Feil, Esq.

Dated: Bay Shore, New York
December 5, 2006

By: 

Timothy Feil, Esq.
Attorney Reg. No.: TF3516
Finkelstein, Feil & Foxman, LLP
1322 Fifth Avenue
Bay Shore, New York 11706
Tel. (631) 969-8833
Fax. (631) 969-8835

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GREGG BOSTER,

Index No. CV 06 - 4756

Plaintiff,

NOTATION OF DEFAULT

-against-

SALVATORE BRACCIA, DANIEL LETTIERE,
SCHRODER & COMPANY, INC., DAMIEN
NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a
"ROBERT MCGRATH,"

Defendants,
-----X

I, Robert C. Heinemann, Clerk of Court of the United States District Court for the Eastern District of New York, do hereby certify that the Defendants SALVATORE BRACCIA, DANIEL LETTIERE, SCHRODER & COMPANY, INC., DAMIEN NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a "ROBERT MCGRATH" (hereinafter collectively referred to as "All Defendants") have not filed an answer or otherwise moved with respect to the complaint herein. The default of all Defendants is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: Brooklyn, New York
December __, 2006

ROBERT C. HEINEMANN
Clerk of Court

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GREGG BOSTER,

Index No. CV 06 - 4756

Plaintiff,

-against-

DEFAULT JUDGMENT

SALVATORE BRACCIA, DANIEL LETTIERE,
SCHRODER & COMPANY, INC., DAMIEN
NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a
"ROBERT MCGRATH,"

Defendants,
-----X

The summons and complaint in this action having been duly served on Defendants SALVATORE BRACCIA on September 27, 2006, Defendant DANIEL LETTIERE on September 25, 2006, Defendant SCHRODER & COMPANY, INC. on October 13, 2006, Defendant DAMIEN NOVELLO on September 29, 2006 and Defendant LOUIS CAIOLA on September 26, 2006 and said Defendants having failed to plead or otherwise defend in this action, and said default having been duly noted, and upon the annexed declaration of default judgment.

NOW, on motion of Timothy Feil, Esq. of Finkelstein, Feil & Foxman, LLP, the attorneys for the Plaintiff, it is hereby ORDERED and ADJUDGED that GREGG BOSTER, the plaintiff, does recover of all Defendant(s), joint and severally, the sum of ONE MILLION ONE HUNDRED NINETEEN THOUSAND NINE HUNDRED SIXTY SEVEN DOLLARS AND FIFTY CENTS (\$1,119,967.50), the amount claimed, plus interest in the sum of \$ _____, with costs and disbursements, and attorneys' fees in the sum of \$ _____, amount in all to the sum of \$ _____, plus interest at the legal rate in effect on the date of this judgment; and, that the Plaintiff has execution therefor.

Dated: Brooklyn, New York
December 6, 2006

By: _____
Judge J. Gleeson

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GREGG BOSTER,

Index No. CV 06 - 4756

Plaintiff,

-against-

**AFFIDAVIT IN SUPPORT OF
DEFAULT JUDGMENT**

SALVATORE BRACCIA, DANIEL LETTIERE,
SCHRODER & COMPANY, INC., DAMIEN
NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a
"ROBERT MCGRATH,"

Defendants,
-----X

1. I am a member of the law firm of Finkelstein, Feil & Foxman, LLP, attorneys for the Plaintiff, Mr. Gregg Boster ("Plaintiff" or "Boster") herein, and as such am fully familiar with the facts and circumstances surrounding this action.

2. Mr. Boster submits the instant application for default as against Defendants Salvatore Braccia ("BRACCIA"), Daniel Lettiere ("LETTIERE"), Schroder & Company, Inc. ("SCHRODER"), Damien Novello ("Novello"), Louis Caiola ("Caiola") and John Doe a/k/a "Robert McGrath" ("McGrath") (herein collectively referred to as "Defendants") for their failure to provide an answer or otherwise appear herein despite being duly served with the Summons and Complaint and respectfully requests that this Court direct that a date certain be made for an inquest for an assessment of damages on the causes of action set forth in the Plaintiff's Complaint.

3. This is an action by Plaintiff to recover damages arising out of the fraud perpetrated against him, whereby the Defendants absconded with One Million One Hundred Nineteen Thousand Nine Hundred Sixty Seven Dollars and Fifty Cents (\$1,119,967.50) of Mr. Boster's money under an elaborate scheme where Mr. Boster was led to believe that he was investing in the stock market through a genuine securities broker-dealer. Attached hereto as Exhibit "A" is a copy of the Complaint in the underlying action. Attached to the Complaint as Exhibit "A" is the Indictment identifying the checks submitted by Mr. Boster to the Defendants

as follows: \$35,008.00 on July 14, 2003, \$4,927.50 on July 21, 2003, \$105,008.00 on July 31, 2003, \$150,000.00 on August 22, 2003, \$225,008.00 and \$270,008.00 on October 8, 2003 and \$330,008.00 on October 9, 2003. Unbeknownst to Mr. Boster, the Defendants were not licensed broker-dealers or stockbrokers and had created the fictitious entity "Schroder & Company, Inc." for the sole purpose of stealing monies from unsuspecting persons of the public such as Plaintiff.

4. This action was commenced by the filing of a Summons and Complaint, with the Clerk of the U.S. District Court, Eastern District of New York, on August 30, 2006, and assigned the index number CV-06 4756. Thereafter, the Summons and Complaint was served on BRACCIA on September 27, 2006, Defendant LETTIERE on September 25, 2006, Defendant SCHRODER on October 13, 2006, Defendant NOVELLO on September 29, 2006 and Defendant CAIOLA on September 26, 2006. A copy of the affidavits of service of the Summons and Complaint upon the aforementioned Defendants are attached hereto as Exhibit "B".

5. On November 10, 2006, this law firm mailed notice of default letters indicating Plaintiff's intention to seek a default judgment for failure to answer the Complaint to LETTIERE, SCHRODER, NOVELLO and CAIOLA. A copy of said letters are attached hereto as Exhibit "C".

6. On November 22, 2006, this law firm mailed a notice of default letter indicating Plaintiff's intention to seek a default judgment for failure to answer the Complaint to Vincent Spata, Esq., who, weeks earlier, informed me that he was representing BRACCIA and that he would require an extension of time to submit any responsive pleading. A copy of said letter is attached hereto as Exhibit "D".

7. I granted Mr. Spata's request as a courtesy provided that Mr. Spata make a written notice of appearance and confirm said extension request in writing. To date, despite two (2) telephone calls to Mr. Spata's office seeking written confirmation, no return message was ever

received.¹

8. To date, the Defendants have completely disregarded the Summons and Complaint and have failed to interpose an answer or other responsive paper, despite repeated requests by affirment on behalf of the Plaintiff.

9. More than twenty (20) days have elapsed since service of said Summons and Complaint herein. The time of Defendants to answer the Summons and Complaint herein has not been further extended to the present and Defendants are in clear default of the timeline for answering the Summons and Complaint.

10. Said Defendants are not infants or incompetents and are not believed to be in the military service of the United States.

11. That this Court should recognize that Mr. Boster has a good and meritorious cause of action and due to defendant's default, plaintiff's ability to prosecute this action is severely prejudiced.

12. Accordingly, Plaintiff has no other recourse to protect his client's interests in this action but to proceed for a default judgment and respectfully requests that this Court enter a default judgment and respectfully requests that the Court direct that a date certain be made for said inquest for an assessment of damages on the causes of action set forth in the Plaintiff's Complaint.

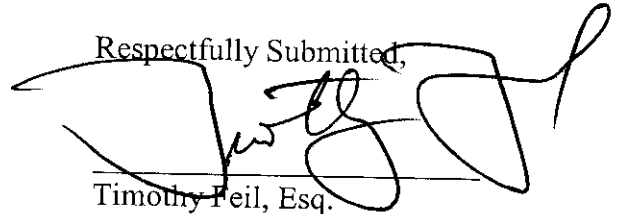
13. No previous application for the relief prayed for herein has heretofore been made.

¹ In order to effectively notify Defendant BRACCIA of this application, this firm served both Mr. Spata and Mr. Braccia with same.

14. I declare under penalty of perjury that the foregoing is true and accurate to the best of my/our knowledge, information and belief; that the amount claimed is justly due and owing to Plaintiff; that no part thereof has been paid; and, that the disbursements sought to be taxed have been made in this action, or will necessarily be made or included in this action.

Dated: Bay Shore, New York
December 5, 2006

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Timothy Feil', is written over a horizontal line.

Timothy Feil, Esq.
Attorney Reg. No: TF3516
Finkelstein, Feil & Foxman, LLP
1322 Fifth Avenue
Bayshore, New York 11706
Tel. (631) 969-8833
Fax. (631) 969-8835

cc: Vincent Spata, Esq.
Salvatore Braccia
Daniel Lettiere
Schroder & Company, Inc.
Damien Novello
Louis Caiola

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GREGORY BOSTER,

-----X Index No.: CV 06-4756

-against-

Plaintiff,

SALVATORE BRACCIA, DANIEL LETTIERE,
SCHRODER & COMPANY, INC., DAMIEN
NOVELLO, LOUIS CAIOLA and JOHN DOE a/k/a
"ROBERT MCGRATH,"

AFFIRMATION OF SERVICE

Defendant(s).

-----X
Meybell Menjivar, being duly sworn, deposes and says that she is not a party to this action, is over the age of 18 years, and resides at Nassau County, New York, and that on the 7th day of December 2006, she served the Plaintiff's Motion for Default upon the following:

Salvatore Braccia
18 North Edo Ct.
Staten Island, New York

Louis Caiola
C/O Ulster Correctional Facility
Classification Department
DW No.: 06 R 2679
750 Berne Road
P.O. Box 800
Napanoch, New York 12458

Damien Novello
25 Briarcliff Drive
Merrick, New York 11566

Daniel Lettiere
37 Driving Park Avenue
Lynbrook, New York 11563

Schroder & Co., Inc.
555 Route 18 South
East Brunswick, New Jersey 08816

Vincent Spata, Esq.
7016 18th Avenue
Brooklyn, New York 11204

Service was made as referenced above, by mailing a true and complete copy thereof by regular U.S. Mail, and placed in the custody of the U.S. Postal Service, addressed to the address set forth after the name.


Meybell Menjivar